

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8948 of 2003

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

HARSHKUMAR ARVINDBHAI PATEL

Versus

GUJARAT SECONDARY AND HIGHER SECONDARY EDUCATION BOARD

Appearance:

MR BIPIN P JASANI for Petitioner No. 1
MR DIPAK DAVE for MR AD OZA for Respondent No. 1
RULE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 17/12/2004

ORAL JUDGEMENT

1. The petitioner has, by way of this petition, prayed that respondents be directed to produce the answer book of his son of the subject of Chemistry of Higher Secondary Certificate Examination and further to quash and set aside the verification of marks dated 12th June,

2003.

2. Mr. Jasani learned advocate for the petitioner has placed reliance on the instructions received from the Gujarat Secondary and Higher Secondary Board, Gandhinagar, with regard to examining the papers of XIIth H.S.C. and more particularly, on clause 3 (B) wherein, the following directions are issued :-

"Coordinator shall use Green pen
Moderator shall use Black pen.
Examiner shall use Red pen.
Verifier shall use Pencil."

3. Mr. Jasani has further contended that the respondent Board has no authority to correct the said mistake after the answer books are examined at the examination centre and, therefore, this correction is not permitted. In view of this, he has placed reliance on the decision of this Court in the case of Parekh Saloni (minor) v. Gujarat Secondary Education Board, reported in 1998 (1) G.L.R. p.311.

4. Mr. Dave learned advocate for the respondent Board has produced the answer book of Chemistry paper. He submitted that there was a mistake in calculation of the total marks as a result of which the petitioner's son was given 80 marks. Further, in the reply also it is stated as under :

"I say that the Board has not reassessed answer sheet of petitioner's son of Chemistry subject. I say that the petitioner's son was rightly given 77 marks in the subject Chemistry."

5. I have heard the learned advocates for the respective parties and have perused the relevant record. This Court while issuing notice on 1st July, 2003 has directed the respondents to depute one responsible officer from his office and to produce the answer book of the Chemistry paper of the petitioner. Pursuant to the said order, the answer book of Chemistry paper was produced before the Court.

6. On going through the answer book, it is clear that the authority has corrected the mistake while reassessing and/or rechecking the answer book. Moreover as per the say of the respondents, since the petitioner's son was getting 77 marks, the said correction was carried out in the marksheet. Thus, in my view, if while examining the papers, and/on verification, if some

mistake is found, either for increasing or decreasing the marks, it is always open for the respondent Board to examine the paper and correct the mistake of totalling marks.

7. In the premises aforesaid, in view of the fact that the respondent board has merely corrected the mistake while reassessing and/or rechecking the answer book, no case is made out for interference by this Court. Hence, the petition is rejected. Rule is discharged with no order as to costs. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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